A preliminary analysis of the new EC communication "Tackling the Challenges in Commodity Markets and on Raw Materials"[1]

By David Hachfeld[2]

Raw materials as a European policy field

In 2008, the EU discovered a new policy field, raw materials. Reacting to a years-long intensive corporate lobbying process, the Commission published in November 2008 the so called Raw Materials Initiative (RMI)[3]. Tacking up the messages of the business community, the EU identified the availability of cheap raw materials for its industry as a crucial question. In order to avoid shortages in the supply of raw materials, the RMI builds on three pillars: 1) securing access to raw materials on world markets at undistorted conditions, mainly through trade and investment policy, 2) fostering sustainable supply of raw materials from European sources by improving framework conditions for mining in the EU and 3) reducing the EU's consumption of primary raw materials, mainly through better recycling quotas.

Since the publication in 2008, the Commission undertook work on all three pillars. But by far the most concrete actions were undertaken on pillar one. By using the World Trade Organisations Dispute Settlement Body, by including the issue of raw materials in all currents trade negotiations and through trade diplomacy the EC tried to force its trading partners to abandon all trade and investment policy instruments that limit free trade and investment in the area of raw materials. Especially export restrictions, which many developing countries use to stimulate local processing, were identified by the EC as threats to the competitiveness of its own industry.

Disputes around the new RMI communication

An updated RMI communication was scheduled in the EU calendar for November 2010. A leaked draft of the communication exposed the original plans of the commission to simply update the 2008 communication a bit, with a few new instruments but without any substantial revision. But as it happens sometimes in the long corridors of the Commission, the publication was postponed three times. In January 2011 another leaked draft revealed the reason behind this postponement. Some parts of the commission assessed the current focus of the RMI as too narrow. Instead of concentrating on securing access of the EU industry to some raw materials identified as critical, the new leak showed that the EC adopted a broader perspective on the issue. High levels of price volatility on commodity markets (including metals and minerals, but also energy resources and food) and the problematic developments of the financialization of these markets were identified as another critical development.

After another short postponement during which the commission tried to accommodate the different views, it finally launched a new communication on 2nd February 2011. In this communication, the original RMI is included as one part (Chapters 4 and 5). The other parts which deal with the developments in the commodity markets are new. Also the title

---

[1] Available online at http://ec.europa.eu/enterprise/policies/raw-materials/files/docs/communication_en.pdf

[2] This is a personal preliminary analysis. The views expressed are those of the author and do not necessarily represent the views of, and should not be attributed to Oxfam. Contact: dhachfeld@oxfam.de.

[3] EC COM(2008) 699: THE RAW MATERIALS INITIATIVE — MEETING OUR CRITICAL NEEDS FOR GROWTH AND JOBS IN EUROPE.

of the new communication display the change of the focus: "Tackling the Challenges in Commodity Markets and on Raw Materials". Not surprisingly, the communication was not presented only by industry commissioner Tajini, who was originally in charge of the RMI, but also by the commissioners for Internal Market and Services (Barnier) and Agriculture and Rural Development (Cioloş).

Commodity markets: The EC discovers the need for transparency and regulation

When reading the first chapters of the new communication and when comparing it with the RMI communication from 2008 a change in the tone and direction is eye-catching. While the former communication clearly followed the classical free-trade dogma, the new text sticks in general to the call for trade liberalisation, but at the same time it admits the need to increase transparency and to regulate markets for commodities.

The communication starts with displaying the increased price volatility on commodity markets in recent years. It also states that these sharp price swings have had an influence on consumer prices and have "at times lead to social unrest and deprivation". Increasing global demand is seen only as one reason for this development. The increasing financialization of commodity markets is seen as another reason. The communication states that "between 2003 and 2008 … institutional investors increased their investments in commodities markets from 13 billion euro in 2003 to between 170 and 205 billion euro in 2008. While the financial crisis interrupted the upward trend, financial positions approached or even exceeded their 2008 peaks on many markets in 2010 and investment by index traders in particular has increased strongly."

While the Commission plays down the interrelation between the fast growing financialization and the price trends by saying that the effects of the derivative markets on the physical markets are not easy to identify and that "further work is therefore needed to deepen understanding of these developments", it nonetheless carefully opens the door to a stronger regulation on these markets. It seems that the Commission finally also accepted that there is clear evidence regarding the role of speculation in commodity markets and its impact on prices and specific negative impacts this can have for the world's poorest countries. A draft of the communication leaked mid January still stated that "at this stage, there is little evidence that the price formation process on commodity markets has changed in recent years with the growing importance of derivatives markets. Empirical studies to date have not provided evidence of a correlation between the substantial increase in index fund positions and commodity futures prices". Following a public outcry about the ignorance of the Commission to recognise that there is actually a lot of evidence, the commission stepped back and amended the final version of the communication and kicked out the sentence on the pretended non-existence of evidence.

When presenting the policy responses to the developments on the commodity markets, the Commission clearly focuses of increasing transparency of the markets. Most of the instruments presented for the energy, food and financial markets concentrate on more transparency, better data collection and improved flows of information. But at the borders of the communication the commissions also opens the door for new regulatory measures. Explicitly mentioned is the option to introduce position limits on commodity markets.

The interesting question is now how much of this rhetoric on transparency and regulation will translate into political practice. The first part of the communication can be seen as first step in the right direction, but till now it's hard to estimate whether these steps will also lead to effective regulation. Much depends from how the G20 process will develop. The France presidency has announced it wants to set in force more effective measures. The EC's communication gives some careful backing to this French initiative. The EU has now the responsibility to go beyond nice announcements and set in force an effective regulation.

The Raw Materials Initiative: Old Wine in New Skins

While the chapters on commodity markets open a new perspective, the chapters four and five of the communication bring nothing new. These chapters carry forward the Raw Materials Initiative of 2008 without any bigger substantial change. The text has been shortened and revised in some parts but the general direction remains unchanged. The Communication does not outline concrete measures to substantially reduce Europe's overconsumption of resources, which is an important root of the problem, but concentrates on securing access to raw materials in other parts of the world to ensure supply of these materials for the industry of Europe. Europe continues to pursue its own narrow commercial interests in its relations with developing countries, with little real effort to ensure there is mutual benefit. In the centre on the RMI remains the trade and investment policy.

On one hand, the EC is attempting to force developing countries to ban or curb the use of export taxes, which many developing countries use as a development tool. On the other, the EC is trying to negotiate new rules on investment that will give European companies unprecedented access to developing country raw materials on the same or even better terms as local businesses. The communication states the EU should "further embed raw materials issues, such as export restrictions and investment aspects, in ongoing and future EU trade negotiations in bilateral, plurilateral and multilateral frameworks". This means the EU will continue to push for an abolishment of export restrictions in all trade negotiations and it will try to include new rules on investment liberalisation and protection. This comes not at a surprise; it simply summarizes what the Commission and especially DG Trade are doing anyway.

Interesting is a slight change in the rhetoric towards developing countries and emerging economies such as China. The old strategy contained a harsh condemnation of Chinas practice of export restrictions. The draft leaked in November went even further and included a long explanation of the EU's position in a WTO dispute settlement case against China. But in the published communication the option of using the dispute settlement is held more vaguely, the concrete case against China is not even mentioned. Instead, more emphasis has been put on strengthening bilateral, plurilateral and multilateral dialogues on export restrictions. This is an indication that the Commission understood that its unilateral approach has not been well received by other countries. Another cosmetic change is a new order of the chapters. While in the old communication, development aspects of raw materials came in the second place, after the aggressive trade policy section, the development chapter comes now as the first section of pillar one. Substantially the proposed measures remain the same: increasing transparency through processes like the Extractive Industry Transparency initiative (EITI), political dialogue with Africa and fostering a "better" investment climate.

Positive in the new communication is a new acknowledgement of the importance for developing countries to promote local value addition: "Development policy should also target the creation of linkages from the extractive industry towards local industry, by improving the value chain and maximising diversification. Therefore, an enabling business capacity building should be fostered and trade agreements provide the necessary flexibility to achieve this aim." But what is missing is that to provide this necessary flexibility the current EU trade policy must be adjusted. As long as the EU continues to push for strict rules on export restrictions and investment in trade agreements with developing countries (for example in the EPAs), this "flexibility" remains an empty phrase.

Also interesting are the backwards and forwards movements of the commission concerning the Generalised System of Preferences (GSP). The GSP, which is currently under review, is a market access scheme that gives developing countries unilateral preferential access to the EU market. In the review process, the business community (especially BusinessEurope), DG Trade and some Member States (in first place Germany) are calling to make the abolishment of export restriction to a precondition for the access to the GSP preferences. The draft leaked in November 2010 contained a paragraph which followed these calls: "The Commission will suspend – totally or partially - from the General System of Preferences (GSP) countries that apply unjustified restrictions to raw materials". This paragraph has now disappeared completely – a positive signal. But it remains to be seen whether the deletion is due to a real reconsideration of the issue within the commission, or whether it's simply a window dressing exercise. The upcoming review of the scheme will unearth the truth.

Also pillars two and three bear no surprise. On mining in the EU the communication proposes three policies which, in a similar form, were already included in the old strategy: defining national minerals policies, setting up a land use planning policy for minerals, fostering a clearer and more simple process to authorise minerals exploration and extraction and better geological surveys. Concerning the last pillar (efficiency), both the new and the old text concentrate on recycling and waste. The need to substantially reduce resource consumption in Europe, or at least the need to better measure consumption, is missing. The only positive change in the third pillar is a very vague reference to one initiative which would go beyond this: "In the framework of the Europe 2020 flagship initiative on resource efficiency, the Commission will present in 2011 a roadmap for a resource efficient Europe. It will set out a vision of structural and technological changes required to move to a low carbon, resource efficient and climate resilient economy by 2050 and how we can make this transition happen through policies delivering most benefits for the EU's growth, jobs and energy security". While this for the first time goes beyond fostering recycling and urban mining, it is simply not enough to refer to an unclear strategy aiming for a change in 40 years as the solution to a burning question of today. To allow an equitable use of the world's resources, change must happen now.

In sum, the new communication opens a new perspective on the need for more transparency and regulation in the commodity markets, but the direction of the RMI has not changed substantially. From an ecological and from a development perspective, this initiative remains highly problematic.

/ENDS/